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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,011	11/01/2001	Roy K. Greenberg	PA-5270-RFB	3255
7590 11/08/2005			EXAMINER	
Brinks Hofer Gilson & Lione			PHILOGENE, PEDRO	
P.O. Box 10395			ART UNIT	
Chicago, IL 60610			PAPER NUMBER	
			3733	

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/003,011	GREENBERG ET AL.	
	Examiner	Art Unit	
	Pedro Philogene	3733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boylan et al. (6,443,971) in view of Cathcart et al. (5,681,347).

With respect to claim 1, Boylan et al., disclose a medical grasping device comprising: an elongate control member (21) having an atraumatic distal tip section, as best seen in FIG.1, and a proximal end portion; the elongate control member further including a grasping portion (28) proximal the distal tip section; an outer sheath (34) with a passageway therethrough, as best seen in FIG.2, surrounding the elongate control member and relatively movable with respect thereto.

Although Boylan et al teach of a control assembly, as set forth in column 4, lines 13-29, it is noted that Boylan et al., did not teach of a control assembly as claimed by applicant. However, in a similar art, Cathcart et al., evidences such a control assembly to enable the control deployment and displacement of a device.

Therefore, given the teaching of Cathcart et al., it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the control assembly, as taught by Cathcart et al, in the device of Boylan et al., to urge the medical grasping device from a retracted to an expanded position.

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With respect to claims 2, 4-7, the above combination of references teaches all the limitations, the elongate control member being a flexible cannula defining a lumen, as best seen in FIG.2 of Boylan et al, the outer sheath being flexible and kink-resistant, as set forth in column 5, lines 42-55 the atraumatic distal tip section tapers to a blunt and rounded tip; as best seen at the end of the control member 21, the control assembly including an actuation section that is grippable for reciprocal movement along the handle, as set forth in column 6, lines 3-25 of Cathcart et al., and a connecting block (25) as set forth in column 6, lines 3-25 of Cathcart et al.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boylan et al. (6,443,971) in view of Cathcart et al. (5,681,347) in view of Gunther et al. (5,330,484).

With respect to claim 3, it is noted that the above combination of references did not teach of a hemostatic seal between the sheath and the elongate control member; as claimed by applicant. However, in the similar art, Gunther et al. evidence the use of a hemostatic seal to hold the legs of a grid body.

Therefore, given the teaching of Gunther et al., it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Boylan/Cathcart et al., as taught by Gunther et al. to provide a hemostatic seal between the sheath and the elongate control member to hold the legs of the grasping portion.

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Claims 8-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boylan et al. (6,443,971) in view of Cathcart et al. (5,681,347) in view of Hillstead (5,098,440).

With respect to claims 8-21, it is noted that the above combination of references teaches all the limitations, except for wire loops that are substantially circular upon full deployment, as claimed by applicant. However, in a similar art, Hillstead evidences the use of wire loops that are circular upon full deployment and having side sections that overlap and touch the vessel wall to engage the object to be retrieved with a greater force.

Therefore, given the teaching of Hillstead, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to incorporate the design of the grasping device of Hillstead in the grasping device of Boylan/Cathcart et al. to engage the object to be retrieved with a greater force.

With respect to claim 22, the above combination of references teaches all the limitations, as set forth above.

Response to Arguments

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6,171,327

01-2001

Daniel et al.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (571) 272-4716. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272 - 4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pedro Philogene
November 03, 2005


PEDRO PHILOGENE
PRIMARY EXAMINER